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June 3, 2022

VIA ECF

Hon. John P. Cronan
United States District Court Judge
500 Pearl St.
New York, NY 10007-1312

Re: Orbetta v. Dairyland USA Corporation et al., 1:20-cv-09000-JPC

Dear Judge Cronan:

This firm represents the Defendants in the above-captioned matter. Defendants filed a pre-motion letter seeking leave to file a motion for summary judgment on May 6, 2022. (ECF No. 107.) In that letter Defendants stated that this matter is now ripe for summary judgment and outlined the basis for our summary judgment motion. Plaintiffs filed their reply to Defendants' pre-motion letter on May 13, 2022 (ECF No. 108) stating that minor discovery issues remain outstanding. Plaintiffs did not identify what the remaining discovery issues were. In response to the letters, the Court entered an order dated May 17, 2022 (ECF No. 109) requiring the parties to propose a briefing schedule for summary judgment. The Court also required the parties to request a brief extension of discovery if necessary. (*Id.*) Plaintiffs have not yet asked to court to reopen discovery (the first phase of which has technically lapsed) yet Plaintiffs served their document requests to Defendants on June 1, 2022, after the technical close of the discovery period. Furthermore, despite the Court's Order (ECF No. 109) Plaintiffs' counsel have refused to respond to Defendants' request to set a briefing schedule for the contemplated motion for summary judgment.¹ Accordingly, Defendants submit this letter without Plaintiffs' consent.

Even though Defendants deny that any open discovery issues remain, Defendants respectfully request that the Court permit the parties an additional forty-five days to respond to the remaining discovery that Plaintiffs claim is outstanding (a deadline of July 18, 2022). Any remaining discovery issues that are not resolved during this period should be deemed waived.

¹ Plaintiffs' counsel maintained that it would be inappropriate to set a briefing schedule before the outstanding discovery issues are addressed, even though this is precisely what the Court's order required the parties to do.

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With respect to the briefing schedule, Defendants respectfully propose that their motion for summary judgment forty-five days following the close of this discovery period (September 1, 2022), and Plaintiffs' opposition to the motion for summary judgment shall be due forty-five days thereafter (October 16, 2022). Defendants' reply shall be due fourteen days after Plaintiffs' deadline to file their opposition (October 30, 2022).

Respectfully submitted,

Eli Z. Freedberg

Fact and overall discovery are extended to July 18, 2022. Motions for summary judgment shall be filed by September 1, 2022, oppositions shall be filed by October 16, 2022, and replies shall be filed by October 30, 2022.

SO ORDERED.

Date: June 6, 2022

New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge